

U. S. DEPARTMENT OF COMMERCE
MARITIME ADMINISTRATION
WASHINGTON 25, D. C.

ADMINISTRATIVE
REPLY TO
MARITIME ADMINISTRATION
REPLY TO FILE NO.

November 16, 1954

The Honorable
Warren Olney, III
Assistant Attorney General
Department of Justice
Washington 25, D.C.

Re: T.Y. Fong — Trading as Asia Development Corp.

Dear Mr. Olney:

The former Maritime Commission on February 2, 1948 awarded 15 wrecked ships, including the KENWOOD, BELISAN and ABARENDA, liberty tankers, to Asia Development Corp., then of Shanghai, China, under contract No. MCC-61131. These ships were all in Subic Bay, P.I., and the contract provided, among other things, that the hulls or hulks of the ships shall be completely scrapped, dismembered, dismantled or destroyed on or before January 3, 1951. It is further provided that, if not scrapped within the specified time or within any extension granted by the Government, the buyer should pay the Government as liquidated damages \$100 per day for each vessel for which the buyer was in default for a maximum of 180 days. The contract further provided that if the buyer refused to scrap the vessels in the manner provided and within the 180 days period, he should pay the Government liquidated damages in addition to any other sums payable, a lump sum of \$25,000 for each hull or hulk not completely scrapped.

Based upon available information as set forth below it will be seen that a serious doubt exists as to whether the terms of the contract were complied with, particularly with respect to the above-named vessels and that false claims may have been made by Fong pertaining thereto.

The following is a chronology of events concerning the instant matter as reflected in the files of the Maritime Administration:

A contract dated February 2, 1948 was entered into with the Asia Development Corp. involving 15 ships including the BELISAN (ex VISTULA), KENWOOD (ex JOHN), and ABARENDA (ex ACME). The contract price for the salvage of these 15 ships, all located in Subic Bay, was \$271,000.

On file DOC release
instructions apply.

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DEPARTMENT OF JUSTICE	
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Honorable Warren Olney, III

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By letter of August 19, 1948, the Secretary of the Maritime Commission advised the Asia Development Corp., 30 Shansse Road, Shanghai, China, that it had been recently reported that some of the vessels sold to them for scrapping had been offered for resale for operation. This letter pointed out that such sale would be a breach of the contract. Fong responded by letter dated September 4, 1948 denying the reports.

The Far East Representative of the Maritime Commission, at that time Capt. Joseph E. Burger, advised on January 31, 1949 that he had interviewed Fong concerning these vessels and that although Fong contended that inadequate facilities at Shanghai, plus the political situation in China, had prevented getting scrapping operations under way he, Burger, had developed that the real reason was because Fong had been trying to find a buyer of these vessels for operational purposes. He said that a Mr. Charles Kann, Manager of the American Engineering Specialties, told him that in December 1948 Fong had Kann's company repair all deck winches, windlasses, and shell plating above the water line on two libertys. This work was completed on January 10, 1949 at a cost of 8000 U.S. dollars. Kann said Fong wanted this same work done on other vessels but knowing the terms of the Maritime Commission contract with Fong, Kann reportedly refused to undertake any additional such work. Kann also advised that Fong had made arrangements to 1425 material for Formosa for the Chinese Air Force on these repaired vessels but this was stopped by the Chinese Bureau of Registration as the vessels were not registered. This was confirmed by Capt. Burger through the Chinese Air Force Chief of Staff. Captain Burger advised that when he confronted Fong with this information Fong indicated a lack of understanding as to what he had done wrong. Capt. Burger reported that he informed Fong that he was expected to live up to the terms of his contract. The two vessels, that were repaired as above mentioned, were not named by Capt. Burger.

Kann also advised Capt. Burger that Fong had said he intended to go to Washington in an effort to get Maritime Commission approval to place these vessels in operation. Capt. Burger also reported that the JOSEPH CARRIGAN, one of the 15 vessels, had arrived at Shanghai in May, 1948 and that Fong had reportedly approached a representative of the Ming Sung Industrial Co., Ltd. with a verbal offer to either sell or charter this vessel to that company.

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Honorable Warren G. Cline, III

By letter dated November 17, 1948, the buyer was requested for advice of his progress in the scrapping operation and reminded that the contract required the submission of an authenticated scrapping certificate from a reputable surveyor.

Fong by letter dated December 3, 1948 advised that most of the 15 vessels were then in Shanghai awaiting their turn to be scrapped, but pointed out the unrest on the China coast and the impending necessity of moving the vessels to South China to keep them in safe hands. By letter dated January 14, 1949 Charles S. Kann, above mentioned, advised Capt. Burger that Fong had made no effort toward scrapping the vessels and was trying to sell them for 150,000 U.S. dollars each. Kann said Fong had told him he was going to renovate the FLAGLER (CI-M-AV1) and Liberty ship IX-173 (ETAMIN) into commission after they were towed to Formosa and had refused to dismantle any of the auxiliary machinery of these two vessels.

By letter dated November 10, 1949 the buyer was again requested for scrapping certificates and by letter of February 9, 1950, writing from 16 MacDonnell Road, Hong Kong, he advised that he now had in Hong Kong harbor 10 of the vessels including the KENWOOD, BELUSAN and ABAREUDA. He advised that it had been necessary to move to Hong Kong and two of the vessels, the JOSEPH CARRIGAN and the FLAGLER, were badly aground and had to be abandoned at Shanghai. He requested an extension of time to fulfill his contract.

By letter dated December 15, 1950 Fong was again requested for a progress report and Mr. Anthony John Timmes, Washington Representative of Fong, responded on March 7, 1951 enclosing seven affidavits from Capt. W.A. Doust, C.B.E., Hong Kong, each of which on the letterhead of Doust reflected him to be a Salvage Adviser, Ta Hing Offices, St. Georges Building, Hong Kong. These are quoted below:

February 9, 1951

1. "TO WHOM IT MAY CONCERN,

This is to certify that the Liberty Ship IX.173 ETAMIN was towed under my direction from Tolo Harbour to Cheung Sha Wan (Hongkong) breaking up ground.

The Main and Auxiliary engines have been broken up and dismantled into scrap.

The Winches, derricks, etc. had been removed. The Fore-peak tank removed, the hull plating of No. 1 and No. 2 Holds are being cut down to tank top.

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The Superstructure has been cut down to 'tween deck level and No. 4 Hold 'tween deck has been removed to date.

The cutting up of this vessel is nearing completion.

This certificate is issued in good faith and without prejudice."

2. "TO WHOM IT MAY CONCERN, February 8, 1951

This is to certify that the Liberty Ship IX.103 EDGAR ALLEN POE was towed under my direction from Tolo Harbour to Cheung Sha Wan (Hongkong) breaking up grounds.

The Main and Auxiliary engines have been broken up and dismantled into scrap.

The Winches, derricks etc. had been removed. A start has been made to cut the superstructure and hull.

This certificate is issued in good faith and without prejudice."

3. "TO WHOM IT MAY CONCERN, February 9, 1951

This is to certify that the SS ORVETTA, Cargo Vessel (IX.157), was towed under my direction from Tolo Harbour to Cheung Sha Wan (Hongkong) breaking up ground where the said vessel was beached and is in the process of being broken up for scrap.

The Main and Auxiliary engines have been removed from the vessel, have been rendered unfit for service, dismantled as scrap.

The propeller and the rudder have been removed. The cutting up of this vessel is nearing completion.

This certificate is issued in good faith and without prejudice."

Honorable Warren G. Magnuson, III

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4. "TO WHOM IT MAY CONCERN, February 8, 1951

This is to certify that the Liberty Ship BENJAMIN PEDOTTO was towed under my direction from Tolo Harbour to Cheung Sha Wan (Hongkong) breaking up ground.

The Main and Auxiliary engines have been broken up and dismantled into scrap.

The Winches, derricks, etc. had been removed. The tank tops are being cut out as a preliminary to cutting the whole of the vessel up for scrap.

This certificate is issued in good faith and without prejudice."

✓ 5. "TO WHOM IT MAY CONCERN, February 9, 1951

This is to certify that the KENTWOOD IX.179 (ex-JORDEN) was towed from Tolo Harbour and is in the process of being broken up.

The Main and Auxiliary engines have been removed from the vessel, dismantled and brought to scrap or made inoperable."

✓ 6. "TO WHOM IT MAY CONCERN, February 9, 1951

This is to certify that the ABARENDA IX.131 (ex-ACME) was towed from Tolo Harbour and is in the process of being broken up.

The Main and Auxiliary engines have been removed from the vessel, dismantled and brought to scrap or made inoperable."

✓ 7. "TO WHOM IT MAY CONCERN, February 9, 1951

This is to certify that the BELUSAN IX.187 (ex-VISTULA) was towed from Tolo Harbour and is in the process of being broken up.

The Main and Auxiliary engines have been removed from the vessel, dismantled and brought to scrap or made inoperable."

Honorable Warren Cline, III

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The letter continued that according to Fong the FLAGLER and JOSEPH CARRIGAN had been completely scrapped.

By letter dated May 2, 1951 Fong advised, pursuant to Maritime Administration request, that scrapping operations had begun on four vessels, namely, ORVETTA, BENJAMIN PERKOTTO, EDGAR ALLEN POE and RAMON at Chung Sha Wan (Hong Kong), and simultaneously on the KENWOOD, BEULSAN and ACME (ABAREDA), at Sha Tau Kok, Canton Province, adjacent to the British limits of Hong Kong. He said the JOSEPH CARRIGAN and FLAGLER had been completely scrapped at Shanghai, and because of the indirect coercion brought to bear by the Communists' Government on his parents in Shanghai it was found desirable to return the ANTELOPE, HENRY L. ABBOTT and JUAN DE FUCA to Shanghai for scrapping. He said the ANTELOPE reached Shanghai and was completely scrapped but the other two vessels, while under tow by Moller Towing, Ltd., were intercepted by a gun boat patrol and were cut loose and apparently lost at sea. He said the other three vessels covered in the contract, the JOHN C. FREMONT, BANSHEE and MARIVELES remained in their original condition at Subic Bay. Fong stated that none of the vessels had left his ownership and that those at Hong Kong were scrapped under his direct supervision, those scrapped in Canton Province were under sub-contract of Ta Chung Wha Co., and those scrapped at Shanghai were handled by the Workers' Committee of former Asia Development Corp. employees. He said he had been unable to get a surveyor's scrapping certificate for the three ships scrapped at Shanghai as no foreign surveyors remained in that city, and he was unwilling to request the Communist Government authorities to supply one.

An anonymous letter dated May 30, 1951 signed by "One of the Intelleganceer stationed at Hong Kong, from Taiwan" stated:

"Information was received from reliable source in Tokyo, Japan that SWINDLER T.Y. Fong ex-Asia Development Co. in Shanghai, now called Hong Kong Shipping Co. at 16, McDonald Road Hong Kong. The stated person who try to work the old racket of those 69 vessels now are sunk at Subic Bay, Philippine. for he brought them by throughing some crooked way in last several years ago.

"I am sure you will be aware after you through the following information about what he had done with those Liberties in Hong Kong.

HENRY L. ABBOTT
JUAN DE FUCA

Sold to Great China S/S Co. of Shanghai. While on their way to Shanghai, which were intercepted by Chinese Nationalist Navy on 27th. Sept. 1940. Owing to the swell of sea JUAN DE FUCA was sunk at near about Formosa Island, the other was towed to Keelung Taiwan, with the aid of American Navy.

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ORETTA

Sold to Messrs. Lai Yuke Hong, 28A first floor Des Voeu Rd. Hong Kong, and scrapped in Hong Kong.

BENJAMIN PEIXOTTO

Sold to Messrs. Agencia Commercial "Progresso" Ltd. 404 Union Building, and scrapped in Hong Kong.

✓ ✓ ✓ ✓ ETAMIE

Sold to Messrs. Shin Yuen Co. 28, Connaught Rd., Shanghai Communist representative.

~~BEUSAN~~
~~EX VIETNAM~~
~~KENTWOOD~~
~~EX JOHNSON~~
~~ABAREDA~~
~~EX ACME~~
CONCRETE BARGE
FELDSPAR

Sold to Communist Canton Government, which were all towed to Whampoa Canton, payment against safely arrived at destination, BEUSAN towed by MARGARET MOLLER arrived at 26 January 1951. KENTWOOD towed by CAROLINE MOLLER arrived at Whampoa on 26 January 1951. ABAREDA towed by Allegiance MOLLER Fleet arrived at Whampoa on 18 January 1951. Concrete Barge towed by CAROLINE MOLLER arrived at Whampoa on 17 February 1951, which is using as Wharf in Canton.

✓ ✓ ✓ L.S.T. 792

Sold to Chinese Communist, was towed to Hong Kong territory water, then she steamed herself to Canton.

L.S.T. 639

Sold to Chinese Communist through Tong Kai Metal and Shipbreaker Co. yet she could not cleared from Hong Kong Harbour Office, as she is strategic material.

"Your prompt attention would achieve a lot service to your country and other countries who are fighting against Communist bitterly now. For further information Please in touch with Intelligence Authority in Taipei, Taiwan."

Memorandum to Warren Olney, III

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In an undated letter bearing the return address Hyetson Corp., Room 1605, 401 Broadway, New York, N.Y., Fong stated in part:

"In reference to our letter of May 2, 1951 we have received from Captain W.A. Doust, Hong Kong, seven endorsed certificates certifying that the work has been completed on the seven vessels, namely, ORVETTA, BENJAMIN PEIXOTTO, EDGAR ALLEN POE, ETAMIN, KENWOOD, RELISSAN and AGUE. Photostats of these endorsed certificates are attached herewith.

"One other certificate is also enclosed issued by the Director of the Marine, Hong Kong Government, certifying that the two vessels, the HENRY L. ABBOTT and JUAN DE FUCA, while under tow, were intercepted by a gun boat patrol on the border of the China Sea."

The photostats of the original affidavits of Doust previously mentioned merely bear the notation "the dismantling of these vessels is now completed." The endorsement is purportedly signed by Doust on March 16, 1951. There is a possibility from general appearances that the endorsement of Doust is a forgery.

Fong was advised by letter of July 16, 1951 that a time extension had been granted to him for scrapping the three remaining ships. (Certifications that these vessels were ultimately scrapped have been received from the Japan Marine Surveyors and Sworn Measurers Association.) By letter dated August 30, 1951, Fong, among other things, stated, "Certificates covering the scrapping of the hulls of the seven ships at Hong Kong and Canton were forwarded to you These ships were gas burned and cut in pieces and are to be completely scrapped. This was performed previous to January 3, 1951. However the cutting of the large pieces into smaller pieces and other detail work takes a little more time."

In response to above letter Fong was reminded of the terms of the contract and with respect to all vessels, except the three left at Subic Bay, his contract time expired for completion of work on January 3, 1951. He was advised that although the certificates issued by Captain Doust stated that the vessels at Hong Kong and Canton had been scrapped by March 16, 1951, there was no indication that the work was performed within the contractual limits. He was requested to submit additional evidence to substantiate compliance within the required time as no extension on these vessels had been granted and considerable penalty attached for any delay.

By letter of October 4, 1951 Fong advised that work on the seven vessels referred to above was completed before the end of December 1950 and requested that this be accepted as factual along with Doust's certificates.

Honorable Warren E. Miller, III

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By letter dated January 2, 1952 Fong was requested to contact Doust and obtain a statement certifying to the time the seven vessels were actually scrapped and to furnish progress reports on the three vessels at Subic Bay. The file does not indicate that Fong ever complied with this request pertaining to a statement from Doust although he did provide the progress reports.

In a telegram dated February 18, 1952 signed by Vice Admiral Ralph Christie, 2244 Vallejo Street, San Francisco, he refers to himself as an associate of Asia Development Corp. and requests extension of time on the three vessels at Subic Bay. Time was extended for two of the vessels.

By letter dated February 9, 1952 Fong requested permission as required by the contract to sell the three vessels at Subic Bay to a Japanese buyer for scrapping as they had no facilities in Japan to handle. This request was denied.

By letter dated March 3, 1952 Vice Admiral Christie requested advice as to whether the JOHN C. FREMONT might be restored and operated by a company they proposed to form in Japan. This plan apparently was abandoned.

By letter dated April 24, 1952 Mr. E.B. Moller, Mollers', Ltd., P.O. Box 634, Hong Kong, was requested to provide any information he might have relative to the actual scrapping of the BELUSAN, ABARENDIA and KENWOOD. In response Mollers', Ltd. advised that they had towed the BELUSAN, ABARENDIA and KENWOOD from Hong Kong to Whampoa, arriving Whampoa January 18, January 18 and January 31, 1951, respectively. Mollers' also advised they had towed the ETAMIN from Tolo Harbor to Hong Kong in December 1950 arriving Hong Kong December 17. They also advised that the BENJAMIN FELIXOTTO was broken up at Hong Kong in November 1950, the EDGAR ALLEN FOX broken up at Hong Kong December 1950, and the OLIVETTA broken up at Hong Kong November 1950.

A copy of the contract with Fong (Asia Development Corp.) is attached for your information. This contract, you will note, is signed by Fong's Attorney in fact, and a copy of the Power of Attorney is also attached.

Our files do not indicate that any extension of time was allotted to him for scrapping the vessels included in this contract except for specified vessels noted above which are not being considered here.

It is apparent that witnesses who would be necessary to establish a case against Fong resided abroad and Fong's last known address was the Hotel Teito, Tokyo, Japan.

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For your information, considerable background data concerning Fong is available in the files of various intelligence agencies in Washington. Much of this data, including that pertinent to instant matter, is classified and is therefore not being set forth here. The F.B.I. conducted an extensive investigation concerning Fong for other purposes in 1952 and its reports contain much of the information appearing in the files of other Government agencies.

Certain unresolved areas remain requiring such investigation as is possible to determine whether criminal laws have been violated or whether there has been a breach of contract and if so, what damages have accrued. These areas are principally:


1. Were the scrapping certificates forged?
2. Were statements of Fong that scrapping was completed by specified dates false?
3. If scrapping was completed, particularly of the KENWOOD, BELUSAN and AMARETA, on what dates was it actually completed?
4. If not completed, what became of these vessels?

In this latter regard, a possibility exists that they may have fallen into the hands of the Chinese Communists.

Since your Department has jurisdiction over any false claims that may have been made and as this Administration does not have adequate facilities to pursue the matter further, it is suggested that you might desire to request an investigation by the F.B.I. As indicated above, the Bureau is already in possession of considerable data concerning Fong.

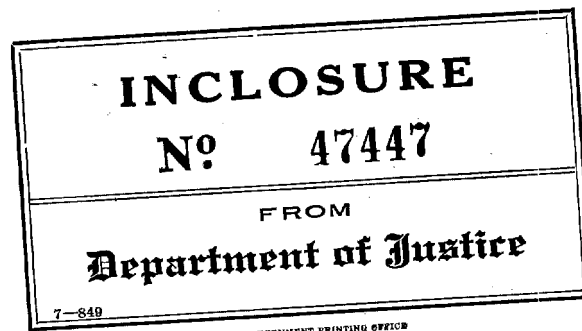
Please advise me of any action you may take, and should you need any additional data from our files please call upon us.

Very truly yours,



Clarence G. Morse
General Counsel

X
Attachments (2)
cc Hon. Warren Burger
(with 2 attachments)



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Approved For Release 2003/10/02 : CIA-RDP80B01676R000700470062-1

ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

NO.

DATE

5 July 1956

(building)

DATE

REC'D

FWD'D

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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Handcarry

Please expedite:

SUSPENSE: 5 July 1956

Retyped for DDCI
signature - 7/10 -
per [redacted]
instructions

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